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Addressing gender inequality in the boardroom

Lord Davies' much awaited independent review on the under-representation of women in the boardroom was published at the end of February. The coalition Government had asked for the review to be conducted because of its concerns on the issue. However, opinion is divided as to whether the recommendations that the report made will help break the 'glass ceiling' that many say still exists for women in business.

The first, and perhaps most significant, of Lord Davies' findings suggests that the glass ceiling in UK boardrooms is as impenetrable as ever. He was unequivocal in his views on the current boardroom gender imbalance that exists. Amongst other things, he confirmed that "women are under-represented on the company boards of UK PLC", even though research showed that companies with more women on their boards statistically out-perform rivals on sales, ROI and return on equity.

According to Lord Davies, although companies have taken steps to redress the balance, overall "the pace of change remains too slow". By way of illustration, between 2009 and 2010 there was only a:

- 0.3% increase in the number of female Directors of FTSE 100 companies; and
- 0.5% increase in the number of female Directors of FTSE 250 companies

In fact, according to the Equality and Human Rights Commission, at the current rate of change, it will take more than seventy years to achieve gender-balanced boardrooms in the UK's largest hundred companies. Given these rather stark statistics, it is easy to understand Lord Davies' and the Government's disappointment with recent progress in the development of boardroom gender equality.

Lord Davies was equally unequivocal about the benefits that a more balanced boardroom can bring and presented a compelling business case for greater gender

diversity on boards, which he said contributed to:

- Improving performance;
- Accessing the widest talent pool;
- Being more responsive to the market; and
- Achieving better corporate governance.

The Report

Quotas?

The above findings were relatively non-contentious. The big question that he needed to decide, was whether quotas had a role to play in facilitating the much needed change. The report chose against recommending the implementation of quotas at this stage and stated that the appointment of Directors should focus on business needs, skills and ability.

It is this decision that has divided opinion. Those pushing for quotas believed that real and quick change could only be achieved through Government-imposed mandatory obligations on companies. In other words, a government led (not voluntary) approach. Lord Davies, however, decided on a business led approach and he found little support amongst those he consulted with for a quota system. In fact, only 11% of the 2,654 responses to an on-line survey carried out by Lord Davies supported the introduction of quotas.

The report's rejection of a quota system will have left those who were hopeful of rapid change disappointed. On balance though, adopting a more business led approach is arguably the fairest way to develop more of a long-term culture of equality in the boardroom, which is wholly based on merit rather than gender.

Furthermore, it ensures that the business world avoids some of the unintended consequences that would inevitably follow on from a quota system – which could obviously include not appointing the best candidates for board roles.

Proposals

Instead of introducing a quota system, the report set out the following 10 point list of proposals:

- In the next six months, Chairs of FTSE 350 companies should set targets for the percentage of women they aim to have on their boards in 2013 and 2015. FTSE 100 companies should aim for at least 25% women directors by 2015, with one-third of new appointments being women. FTSE 250 companies will have lower targets to reflect a lower starting position (and typically smaller boards), but should also apply the one-third women rule to new appointments.
- Listed companies should annually disclose the proportion of women at board level, in senior executive positions and throughout the entire workforce.
- The UK Corporate Governance Code should be amended to require listed companies to establish a policy on boardroom diversity.
- Companies should report on whether the regulatory changes are in place in their 2012 Corporate Governance Statement.
- Companies should disclose information about their appointment process and how they address diversity.
- Investors should consider the above recommendations when considering company reporting and appointments to the board.
- Companies should periodically advertise non-executive board positions to promote diversity in applications.
- Executive search firms should create a voluntary code of conduct to address gender diversity and best practice relating to board-level appointments in the FTSE 350.
- Women from both within the corporate sector and outside the corporate mainstream, such as entrepreneurs, academics, civil servants and senior women from professional service backgrounds, should be considered.
- The "steering board" responsible for producing the report will meet every six months to examine progress. If little or no progress is achieved, legislation (which could include quotas) may need to be introduced.

Other countries

Unsurprisingly, the lack of women in senior decision-making positions is not an issue that affects the UK alone. In fact, the report states that it is a problem that is “endemic globally”. By way of example, according to the report, only 9.7% of the boards of the top 300 European corporations are women.

As a result, international focus on the issue has grown significantly over the last ten years, with more than twelve countries now regularly monitoring the gender balance of their top boards, as compared to just one in 2000.

Some of the steps that have been taken in certain countries (which the Davies report examines) provides for interesting reading and perhaps a glimpse into the future for UK companies, particularly if FTSE100-350 companies fall short of the targets Lord Davies has proposed.

For example, Norway introduced the most stringent (and some would say, draconian) measures to address boardroom gender imbalances. In February 2002, the Norwegian government gave a deadline of July 2005 for private listed companies to raise the proportion of women on the boards to 40%. By July 2005, the proportion was just 24%, so in January 2006, the Government legislated to give companies a final deadline of January 2008, after which they would face fines or even closure. Predictably, full compliance was achieved by 2009.

Other countries which have introduced quotas include Spain and Iceland (in 2007 and 2010 respectively). France and the Netherlands are also considering doing so, as is the EU (with a European Commission published Green Paper on boardroom diversity expected this year).

In contrast, most countries, including Australia, Austria, Germany and Sweden have adopted the type of business led approach to addressing the problem that has been proposed by Lord Davies.

Change in paternity rights

At the end of his report, Lord Davies' commented briefly on what he noted as being the issues behind women's barriers to the boardroom. Amongst these were "The perception of a traditional male cultural environment" and "the old boys network".

Given that such old fashioned gender barriers still appear to be prevalent, it is somewhat ironic that publication of Lord Davies's report more or less coincided with the introduction of new paternity leave rules.

Prior to April 2011, maternity leave rules allowed working mothers the ability to take up to one year of maternity leave, with employment protection during and upon return from leave. These maternity rights were originally introduced by the Government with the intention of protecting working mothers in the workplace. Equivalent rights were not afforded to working fathers, who were only entitled to up to two consecutive weeks paternity leave. An unfortunate and unintended consequence of giving extended rights to working mothers and not fathers was arguably that it reinforced the type of old fashioned stereotypes about gender roles that Lord Davies seems to have suggested still exists.

The new paternity leave rules give working fathers extended paternity rights, enabling them to take up to six months of then mother's maternity leave (and obtaining the same level of employment protection upon his return from leave). How many working fathers will actually exercise this right (and then perhaps work the flexible hours that are so common for working mothers returning from leave) remains to be seen. Nevertheless, it is hoped that the new rules will usher in a new era of shared parenting rights amongst working fathers/mothers and flexible working for all (with the Government proposing to further extend parental rights by 2015). It may therefore go some way towards breaking down some of the career obstacles that working mothers have had to face, that prevent career progression to the boardroom.

However, that is likely to take time, and it remains to be seen whether in the meantime the Government will choose to take more radical steps to address the issue, if Lord Davies's proposals are not adhered to.

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